

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF )  
DELMARVA POWER AND LIGHT COMPANY FOR )  
APPROVAL OF SOLAR RENEWABLE ENERGY ) PSC DOCKET NO. 10-198  
CREDIT CONTRACTS AS SREC SUPPLY )  
SOURCES FOR STANDARD OFFER SERVICE )  
CUSTOMERS (Filed June 1, 2010) )

**ORDER NO. 7824**

**AND NOW**, this 17<sup>th</sup> day of August, 2010.

**WHEREAS**, on June 1, 2010, Delmarva Power and Light Company ("Delmarva") filed an Application (the "Application") with the Delaware Public Service Commission (the "Commission"), pursuant to Section 1007 of the Electric Utility Retail Customer Supply Act ("EURCSA") and the Renewable Energy Portfolio Standards Act, 26 Del. C. §§351 *et seq.* ("REPSA"), for approval of two Solar Renewable Energy Credit ("SREC") contracts for the procurement and sale of SRECS necessary to serve its standard offer service ("SOS") customers; and

**WHEREAS**, the first contract for which Delmarva seeks approval is a 20-year contract between it and White Oak Solar Energy, LLC ("White Oak") pursuant to which Delmarva will purchase 70% of the SRECs and other environmental attributes (together, the "Attributes") generated by White Oak's operation of the Dover Sun Park (the "Sun Park") at a price of \$216.70/MWh per Attribute (the "Delmarva/White Oak Contract"), minus 5,500/MWh year of Attributes during the first four contract years which the Delaware Sustainable Energy Utility (the "SEU") would purchase from White Oak under a separate contract; and

**WHEREAS**, the second contract for which Delmarva seeks approval is between it and the SEU, pursuant to which Delmarva would purchase 11,000 Attributes from the SEU in the fifth and sixth years of the Sun Park's commercial operation at a price of \$249/MWh per Attribute (the "Delmarva/SEU Contract") which Attributes the SEU will separately purchase from White Oak during the first four years of the Sun Park's commercial operation; and

**WHEREAS**, on July 29, 2010 Senate Substitute No. 1 to Senate Bill No. 119 was signed into law, amending the Renewable Energy Portfolio Standards Act ("REPSA") to, among other things: (1) increase the percentages of renewable energy credits ("RECs") and SRECs required to satisfy the REPSA; (2) increase the Alternative Compliance Payment and Solar Alternative Compliance Payment due for retail electricity suppliers that did not meet the REPSA percentage requirements for RECs and SRECs; and (3) require a comparable renewable energy standard for municipal utilities and electric cooperatives; and

**WHEREAS**, Staff retained New Energy Opportunities, Inc. ("NEO") to review the Application; and

**WHEREAS**, NEO issued a report recommending that the Commission approve the Delmarva/White Oak Contract, but that the Commission either reject the Delmarva/SEU Contract or approve it with a 90% reduction in the banking arrangement, since the justifications for the SEU's participation with its ability to bank SRECs with no expiration - the risk that Delmarva would be unable to use SRECs produced by White Oak and that Delmarva would not be able to purchase SRECs from

other producers - were no longer warranted in light of the REPSA amendments; and

**WHEREAS**, the SEU and the Delaware Solar Energy Coalition ("DSEC") were granted leave to intervene out of time and filed comments opposing NEO's recommended treatment of the Delmarva/SEU Contract; and

**WHEREAS**, the Division of the Public Advocate filed comments that supported NEO's recommended treatment of the Delmarva/SEU Contract; and

**WHEREAS**, Delmarva filed comments that also opposed NEO's recommended treatment of the Delmarva/SEU Contract; and

**WHEREAS**, after an evidentiary hearing and deliberations at which the parties presented to the Commission a resolution of their disagreement with respect to the Delmarva/SEU Contract, which resolution alters the quantity, price and timing of the SRECs to be banked with the SEU and the terms under which Delmarva will not have to bank SRECs and/or the SEU will release banked SRECs to Delmarva to meet Delmarva's RESPA SREC requirements (along with conforming changes to the Delmarva/White Oak Contract); and further that the parties will reduce their agreement to a mutually acceptable writing that incorporates these changes; and

**WHEREAS**, at the evidentiary hearing, Delmarva explained that the references in the Delmarva/White Oak Contract to the quantity and timing provisions of the Delmarva/SEU Contract will need to be conformed to reflect the revised quantity and timing provisions of the Delmarva/SEU Contract; and

**WHEREAS**, the Commission having considered the Application, the comments and the testimony of the parties' representatives that the Delmarva/SEU Contract, amended as described on the record by Collin O'Mara, Secretary of the Delaware Department of Natural Resources and Environmental Control and a member of the SEU's Oversight Board's Executive Committee, is in the public interest and should be approved;

**NOW, THEREFORE, BY THE AFFIRMATIVE VOTE OF  
NO FEWER THAN THREE COMMISSIONERS, IT IS HEREBY ORDERED:**

1. That the Delmarva/White Oak Contract (with conforming changes consistent with the changes to the Delmarva/SEU Contract) is in the public interest and is therefore APPROVED.

2. That the Delmarva/SEU Contract, amended as described on the record by Collin O'Mara, Secretary of the Delaware Department of Natural Resources and Environmental Control and a member of the SEU's Oversight Board's Executive Committee, is in the public interest and is APPROVED, subject to the parties' agreement to a mutually acceptable reduction to writing of the amendments described by Secretary O'Mara on the record.

3. That the Commission will supplement this decision with its written opinion supporting this Order at a future regular public meeting.

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Alisa Carrow Bentley  
Secretary